**United States Environmental Protection Agency**
**5 Post Office Square, Suite 100**
**Boston, MA 02109-3912**

February 25, 2022

Mr. Matthew Calacone
Global Operations, Environment, Health & Safety
General Electric Company
1 Plastics Avenue
Pittsfield, MA 01201 via Electronic and U.S. Mail

Re: Conditional Approval of General Electric's November 24, 2021 submittal titled *Rest of River, Pre-Design Investigation Work Plan for Upland Disposal Facility*, GE-Pittsfield/Housatonic River Site

Dear Mr. Calacone:

This letter contains the Environmental Protection Agency's (EPA) conditional approval of GE's *Rest of River Pre-Design Investigation Work Plan for Upland Disposal Facility* (the "PDI WP"). The PDI WP is subject to the terms and conditions specified in the Consent Decree (CD) that was entered in U.S. District Court on October 27, 2000.

Pursuant to Paragraph 73 of the CD, EPA, after consultation with the Massachusetts Department of Environmental Protection (MDEP), approves the PDI WP subject to the following conditions. GE shall implement the PDI WP as modified or clarified by the following conditions. GE shall commence activities for the soil boring and groundwater monitoring program by March 15, 2022 or at the earliest date thereafter in consideration of site conditions, weather, and availability of drilling and survey services.

In accordance with the January 2022 Overall Strategy and Schedule for Implementation of the Corrective Measures (OSS), GE shall provide an Interim PDI Data Summary (Interim Summary) with the UDF Conceptual Design Plan (Conceptual Design) both documents being due six months following the start (first day) of groundwater elevation monitoring for the UDF. This Interim Summary shall include all historic data and all data and information acquired by GE up to that point. In the Conceptual Design, GE shall propose a schedule for the Final UDF Design Plan (Final Design). GE shall provide the UDF PDI Data Summary Report (PDI Summary Report), as described in Section 7 of the PDI WP, with the Final Design and the UDF Operation, Monitoring, and Maintenance (OMM) Plan or 60 days after the last groundwater gauging event, whichever is later.

As used in this letter, the term "GE Parcel" means the parcel, and the consolidation area or consolidation area footprint, both as shown on Figure 1 of the PDI WP.

1. Section 3.2.2: The Work Plan indicates that the UDF area and vicinity includes a seasonally flooded area off Woodland Road and "…a number of man-made or modified permanently flooded areas, which are associated with the prior quarry operations." GE shall gather all necessary information for a determination of whether these flooded areas constitute jurisdictional resource areas subject to the Massachusetts Wetlands Protection Act (MGL c.131, Section 40 and 310 CMR 10.00), including but not limited to, Riverfront Area, Land Under Water Bodies and Waterways, Bordering Vegetated Wetlands, and Bordering Land Subject to Flooding. Information requirements to make such determination, include, but are not limited to, those requirements found in MassDEP's *Delineating Bordering Vegetated Wetlands Under the Massachusetts Wetlands Protection Act, A Handbook*, March 1995 (if applicable) and FEMA Flood Surveys. For those areas determined to be jurisdictional resource areas under the Massachusetts Wetlands Protection Act, GE shall collect any additional data necessary to support mitigation for any loss of such jurisdictional resource areas resulting from the UDF insofar as mitigation is required under the regulations in 310 CMR 10.00.

2. Section 3.2.2, 4th paragraph: GE shall ensure that its observations regarding the presence or absence of such species is documented and shall assess whether the habitat conditions are consistent with those required by such species, as part of the Habitat Assessment discussed in Section 5.2.1.

3. Section 3.2.6, 1st paragraph: GE shall include supporting documentation from the 2019 investigation in the Interim Summary.

4. Section 3.2.6, 2nd paragraph: In future submittals, GE shall specify the date ranges over which the given ranges of water table elevations were collected.

5. Section 3.2.6 and Figure 5: Previous soil boring location B-3 is missing from Figure 5. GE shall ensure boring B-3 is indicated on all figures in future reports.

6. Section 3.2.6 and Figure 5: To the extent practicable, monitoring wells at the nearby Lee Municipal Landfill, and USGS monitoring wells (subject to GE's assessment of these wells) along the southern shore of Woods Pond, shall be utilized when evaluating groundwater elevations (additional comments below).

7. Section 3.2.6: EPA notes that the surface water elevation in the ponds can only be considered an estimate of nearby groundwater elevations as evaporation and storm water flows will impact the water level in the ponds differently than groundwater. Therefore, use of the gravel pond water elevation data as related to groundwater elevation shall be accordingly qualified in future UDF documents. See Condition 29 below regarding monitoring of the gravel ponds.

8. Section 3.2.7, 1st paragraph, 2nd sentence: It is not clear what bordering property has the outdated historical information. Future UDF submittals, including the Summary Report, shall identify specific property or properties by parcel IDs and location when discussing historical groundwater quality information or further information acquired through implementation of this PDI WP.

9. Section 3.2.7: GE shall investigate the construction details, integrity, and availability of access to the 12 USGS wells along the southern end of Woods Pond to the extent that the information is available, that these wells can be accessed, and that groundwater elevation monitoring in these wells could provide useful additional data points to improve groundwater contouring around the entire GE-owned parcel.

10. Section 4.1: GE does not describe what impacts (if any) the overhead (OH) power lines and/or easement may have on the investigation work or ultimate UDF design. GE shall describe any constraints associated with the easement in the Conceptual Plan.

11. Section 4.2, 1st paragraph: The description of the purpose of the Perimeter Berm shall be clarified in the Conceptual Plan with respect to its functionality. GE shall clarify that the Perimeter Berm will control leachate generated from the consolidated material by supporting, and in combination with, the base liner containment system as described in the 2nd paragraph, not solely by itself.

12. Section 5.2: GE shall install a weather station on-site to record rainfall, temperature, wind speeds and directions, and barometric pressure, and to commence recording data during the pre-design investigation to gather a year-round inventory of weather conditions prior to construction. This data will serve to further refine regional meteorological data for use in designing and conducting baseline air monitoring, UDF design parameters, as well as operational considerations.

13. Section 5.2: GE shall include the various debris and tailings piles within the UDF operational (footprint and support) area in the topographic survey and shall visually characterize those materials to determine their appropriate disposition.

14. Section 5.2.1: GE shall organize the habitat assessments separately for the consolidation area vs support area because restoration options may be different (for example, no planting beyond grasses on capped consolidation area) as presented in the Final WP. GE shall provide all habitat assessment data collected to date in the Interim Summary.

15. Section 5.2.1, last bullet: GE shall use the current MA "Invasive" and "Likely Invasive" lists, along with the cited USACE list, in conducting its assessment. This will ensure that species on the Likely Invasive List, such as *Actinidia arguta* (hardy kiwi), will be included in this survey.

16. Section 5.2.1, 3rd bullet: GE specifically excludes "the man-made ponded areas" from evaluation under current federal wetland delineation criteria. GE shall gather all necessary information for a determination of whether these areas constitute jurisdictional resource areas subject to the Massachusetts Wetlands Protection Act (MGL c.131, Section 40 and 310 CMR 10.00) in accordance with Condition 1 above.

17. Section 5.2.1: 4th bullet. GE states a review of aerial photos will be completed to identify the potential presence of vernal pools. There may be vernal pools present in wooded areas, which would be difficult to distinguish with canopy cover. A review of LiDAR data shall also be assessed, in addition to the aerial photos, prior to field reconnaissance as grades may be a better indicator in forested locations. GE shall conduct the field verifications of potential vernal pools in Spring 2022 to capture the calendar year 2022 breeding season.

18. Section 5.2.2 and Figure 2: The depiction of Bathymetric Survey Area 3 does not encompass the entire area of the GE Parcel. This may be due to slight differences between GIS and aerial photo boundaries of Bathymetric Survey Area 3; however, the bathymetric survey shall extend all the way to the GE Parcel boundary.

19. Section 5.2.3.1: There are areas within the southern portion and west central areas of the consolidation area footprint, as shown on Figure 3, that potentially have an insufficient number of geotechnical borings proposed. To account for the potential that the consolidation will approach the limits shown on the included figures, GE shall add an additional four geotechnical borings. These additional locations shall consist of two each that are equally distributed in each of the southern and west central limits of the consolidation area footprint.

20. Section 5.2.3.1, 2nd paragraph and Table 1: The text reads that all 18 borings will be advanced to at least elevation 935 ft. or lower for geotechnical purposes, whereas the values given on Table 1 for existing ground elevation and minimum bottom boring depth (ft. below ground surface) for all the MW and PZ borings contradicts this text and produces a minimum bottom of boring elevation of only 944 ft. (or 944.1 ft. in the case of PZ 2022-7), nine (9) feet higher than the 935 ft boring depths. In addition, note 3 on Table 1 indicates boring MW 2022-4 will reach a target bottom elevation of 910 ft or lower, whereas the cited

values yield a bottom elevation of 944 ft. All borings shall be advanced to at least elevation 935 ft with boring MW2022-4 being advanced to at least 910 ft.

21. Section 5.2.3.1, 3rd paragraph. GE shall also analyze selected soil samples for organic content. In addition, GE shall evaluate the need for other tests, including unit weight and soil shear strength tests (static and cyclic), during drilling activities, depending on the soil types encountered.

22. Section 5.2.3.1, 5th paragraph: GE shall start or continue continuous sampling around elevation 965 ft in all monitoring well and piezometer borings until they identify the water table elevation so that the precise water table elevation will be captured within the continuous sample intervals.

23. Section 5.2.3.1, 6th paragraph: GE shall ensure that one of the samples from each boring is collected from approximately two feet below the interpreted water table.

24. Section 5.2.4, 1st paragraph: The described borings for soil testing for environmental quality in the first sentence (six monitoring wells and one piezometer totaling seven) does not agree with the subsequent text, Table 1, or Figure 4 that specifies eleven (11) locations. GE has stated that Table 1 and Figure 4 are correct as presented. In addition, GE shall conduct chemical testing as described from at least six borings within the consolidation footprint at locations approved by EPA.

25. Section 5.2.5: EPA reserves the right to require additional well installations and monitoring for the monitoring well network to be used during UDF operations or subsequent post-closure operation & maintenance.

26. Section 5.2.5 and Figure 5: GE shall install three wells, as opposed to the current two, roughly equally spaced between MW 2022-3 and MW 2022-6 along the downgradient perimeter. This will: a) provide better lateral coverage of the downgradient perimeter, particularly if there is a southwesterly component to the overall groundwater flow direction, and b) increase the chances that the spacing of the downgradient wells installed for the PDI WP are deemed sufficient for the long term UDF monitoring program. In addition, GE shall install one nested pair of 2-inch monitoring wells, consisting of a water-table well paired with a deeper screened well, at location MW 2022-4 to determine if there are any upward or downward vertical gradients present in the area of the UDF.

27. Section 5.2.5 and Tables 2 and 3: Earlier text implies that the boreholes used for soil geotechnical and chemical sample collection will also be used for piezometer and groundwater monitoring well installation. However, boring depths required for soil testing are deeper than what is needed for piezometer

and monitoring well installations. If GE uses geotechnical boreholes, which would extend deeper than boreholes required solely for piezometer or monitoring well installation, then GE shall ensure that the deeper horizon of borings for soil testing are appropriately backfilled to ensure proper construction of piezometers and monitoring wells in a manner subject to prior EPA approval.

28. Section 5.2.5: GE shall conduct slug testing in a minimum of 50 percent of the installed monitoring wells to determine the hydraulic conductivity of the aquifer being monitored. EPA reserves the right to require additional slug testing should significant lithological variability be encountered across the site.

29. Section 5.2.6: GE shall equip all monitoring wells and piezometers with data logging pressure transducers to record water elevation daily for a period of one year. The daily time for recording the water level shall be set in the early morning hours so as not to be impacted by sampling activities in the monitoring wells during daylight hours. Following the one-year period, the transducers may be removed, and GE could propose manual well gauging at that time at a frequency approved by EPA. For water table elevation measurements, GE shall also install data logging pressure transducers in a stilling well in one of the on-site gravel ponds. GE shall also assess the possible use of water level elevation data currently being collected quarterly downstream of the Woods Pond Dam. Additionally, GE shall evaluate and propose to EPA a method to measure the surface water elevation in the Housatonic River west of the UDF area until the planned USGS-style gauging station is installed in the vicinity of Woods Pond Dam (likely at the Schweitzer Bridge), as proposed in GE's Interim Baseline Monitoring Work Plan. GE shall also install a transducer to collect water level data in an upgradient and downgradient monitoring well at the former Lee Municipal Landfill if access is provided by the Town of Lee. If access is not provided to GE, GE shall incorporate the data if acquired by another entity. This data shall be used in determining seasonal high-water table.

30. Section 5.2.7: Pre-characterization of the groundwater quality within the consolidation area is necessary, especially considering the historical industrial use of the property as a gravel pit with heavy equipment and truck operations with fuels and oils. To further this pre-characterization effort, boring B-2022-3 and piezometer PZ-2022-6 shall instead be completed as additional monitoring wells for pre-design groundwater quality testing. Additionally, GE shall include analysis for PFAS compounds in their pre-design investigation groundwater sampling.

31. Section 5.2.8, 1st bullet: The initial survey area shall be the entire GE Parcel for the Phase 1 Cultural Resources Assessment (CRA). Phase IA CRA activities shall include a site reconnaissance of the entire GE Parcel by a qualified

archaeological and/or cultural resources professional. A Phase 1A CRA report shall be submitted to EPA for approval by July 1, 2022 and include a supplemental plan for any further CRA work, if necessary, as specified in the final bullet of Section 5.2.8. Any further such work shall be completed so that the reporting of such work can be included in the Interim Summary.

32. Section 5.2.8, 2nd and 3rd bullets: The term "evaluation" has a specific meaning in the regulations implementing Section 106 of the National Historic Preservation Act (36 CFR Part 800). Accordingly, GE shall use the term "investigations" in place of "evaluations" in the findings presented in the Phase 1A Report or in the supplemental plan specified in the final bullet of Section 5.2.8, should any potential cultural resources be identified. Should any potential cultural resources be identified during the investigation, GE shall immediately notify EPA.

33. Section 5.2.8, 4th bullet: During outreach regarding Rest of River activities in 2018, two federally recognized tribes, Stockbridge Munsee and the Wampanoag Tribe of Gay Head (Aquinnah), as well as the Schaghticoke Indian Tribe and the Schaghticoke Tribal Nation, expressed interest in the Rest of River project. These four entities, along with the Massachusetts State Historical Commission (MHC), have received copies of the PDI WP and shall be provided copies with all subsequent CRA submittals.

34. Section 5.2.8, 6th bullet: GE shall replace the first word "Evaluation" with "Identification" in future submittals and shall ensure that a review of historic maps is included in this phase to identify historic structures.

35. Section 6.1: Because of the integral nature of establishing the base elevation for the UDF, which is based upon the seasonal high groundwater elevation, GE shall propose the method for determining the seasonal high groundwater elevation in the UDF Conceptual Design

36. Table 1, footnote #3: Should the lithology encountered in the deep boring advanced to at least elevation 910' indicate the presence of any potential confining or restrictive layers, GE shall discuss with EPA the need for additional deep borings to gather a better understanding of the geological setting beneath the UDF. The boring for deep monitoring well MW 2022-4 shall be completed first to allow for assessment of lithology that might indicate the presence of potential confining layers. In the event that such layers are identified, drilling depths shall be extended to a similar terminal elevation as MW 2022-4 at up to two existing proposed boring locations. The boring locations selected for extension will provide spatial coverage in an attempt to determine if these possible confining layers are continuous or discontinuous across the site.

37. Attachment A, 4th page: Prior to field use, the section titled "Nest(s) present of" shall be revised to include a check box for Other as well as Northern Long Eared Bats due to the area being listed as potential habitat.

EPA reserves all of its rights under the Decree, including but not limited to, the right to perform and/or require additional sampling, or response actions, if necessary, to meet the requirements of the Consent Decree. If you have any questions, please contact me at (617) 918-1721.

Sincerely,

Richard Fisher
GE Facility Project Manager

cc:
Dean Tagliaferro, EPA
Tim Conway, EPA
John Kilborn, EPA
Christopher Ferry, ASRC (EPA electronic repository)
Thomas Czelusniak, HDR Inc.
Scott Campbell, Taconic Ridge Environmental
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John Ziegler, Massachusetts DEP
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Betsy Harper, Massachusetts Attorney General's Office
Traci Lott, Connecticut DEEP
Susan Peterson, Connecticut DEEP
Graham Stevens, CT DEEP
Lori DiBella, Connecticut Attorney General's Office
Molly Sperduto, Trustee, U.S. Fish. and Wildlife
Field Supervisor, U.S. Fish and Wildlife
Mark Barash, U.S. Department of Interior
Ken Finkelstein, NOAA
Jim McGrath, City of Pittsfield
Michael Coakley, Pittsfield Economic Development Authority

Jeffrey Mickelson, Massachusetts DEP
Mark Tisa, Massachusetts DFG
Jon Regosin, Massachusetts DFG
Melissa Provencher, Berkshire Regional Planning Commission
Christopher J. Ketchen, Chief Administrative Officer, Lenox
Town Administrator, Lee, (Christopher Brittain)
Town Manager, Great Barrington (Mark Pruhenski)
Town Administrator, Stockbridge (Michael Canales)
Town Administrator, Sheffield (Rhonda LaBombard)
Public Information Repository at David M. Hunt Library in Falls Village, CT
Nathan Allison, Stockbridge-Munsee Band of Mohican Indians
Bettina Washington, Wampanoag Tribe of Gay Head (Aquinnah)
Mark Andrews, Wampanoag Tribe of Gay Head (Aquinnah)
Brona Simon, Massachusetts Historical Commission
Edward L. Bell, Massachusetts Historical Commission
Chuck Kilson, Schaghticoke Tribal Nation
Chairman Russell, Schaghticoke Indian Tribe